

is out of compliance with the requirements of this chapter.

[52 FR 17543, May 11, 1987. Redesignated at 53 FR 3, Jan. 4, 1988, and 53 FR 10527, Apr. 1, 1988, as amended at 60 FR 57904, Nov. 24, 1995]

§ 400.175 Revocation and non-acceptance.

(a) FCIC will deny reinsurance to any insurer or will terminate any existing reinsurance agreement if any false or misleading statement is made in the financial statements or any other document submitted by the insurer in connection with its qualification for FCIC reinsurance.

(b) No policy issued by an insurer subsequent to revocation of a reinsurance agreement will be reinsured by FCIC. Policies in effect at the time of revocation will continue to be reinsured by FCIC for the balance of the crop year then in effect for the applicable crop. However, if materially false information is made to the Corporation and that information directly affects the ability of the Company to perform under the Agreement, or if the Company commits any fraudulent or criminal act in relation to the Standard Reinsurance Agreement or any policy reinsured under the Agreement, FCIC may require that the Company transfer the servicing and contractual right to all business in effect and reinsured by the Corporation to the Corporation.

[52 FR 17543, May 11, 1987. Redesignated at 53 FR 3, Jan. 4, 1988, and 53 FR 10527, Apr. 1, 1988, as amended at 60 FR 57904, Nov. 24, 1995]

§ 400.176 State action preemptions.

(a) No policyholder shall have recourse to any state guaranty fund or similar state administered program for crop or premium losses reinsured under such Standard Reinsurance Agreement. No assessments for such State funds or programs shall be computed or levied on companies for or on account of any premiums payable on policies of Multiple Peril Crop Insurance reinsured by the Corporation.

(b) No policy of insurance reinsured by the Corporation and no claim, settlement, or adjustment action with respect to any such policy shall provide a basis for a claim of damages against the Company issuing such policy, other than damages to which the Corporation

would be liable under federal law if the Corporation had issued the policy of insurance under its direct writing program, unless the claimant establishes in a court of competent jurisdiction, or to the satisfaction of the Corporation in the event of a settlement, that such damages were caused by the culpable failure of the Company to substantially comply with the Corporation's procedures or instructions in the handling of the claim or in servicing the insured' policy, or unless the Company or its agents were acting outside the scope of their authority (apparent or implied) in performing or omitting the actions claimed as a basis for the damage action.

§ 400.177 [Reserved]

Subpart M—Agency Sales and Service Contract—Standards for Approval

AUTHORITY: 7 U.S.C. 1506, 1516.

SOURCE: 53 FR 24015, June 27, 1988, unless otherwise noted.

§ 400.201 Applicability of standards.

Federal Crop Insurance Corporation will offer an Agency Sales and Service Contract (the Contract) to private entities meeting the requirements set forth in this subpart under which the Corporation will insure producers of agricultural commodities. The Contract will be consistent with the requirements of the Federal Crop Insurance Act, as amended, and the provisions of the regulations of the Corporation found at chapter IV of title 7 of the Code of Federal Regulations. The Standards contained herein are required for an entity to be a contractor under the Contract.

§ 400.202 Definitions.

For the purpose of these Standards:

(a) *Agency Sales and Service Contract or the Contract* means the written agreement between the Federal Crop Insurance Corporation (Corporation) and a private entity (Contractor) for the purpose of selling and servicing Federal Crop Insurance policies and includes, but is not limited to, the following:

(1) The Agency Sales and Service Contract;

(2) Any Appendix to the Agency Sales and Service Contract issued by the Corporation;

(3) The annual approved Plan or Operation; and

(4) Any amendment adopted by the parties.

(b) *BELL 208B (or compatible) modem*—means a modem meeting the standards developed by BELL Laboratories for dial-up, half-duplex, 4800 or 9600 bits per second (bps) transmission of data utilizing 3780 (or 2780) protocol.

(c) *Contract*, *the* see Agency Sales and Service Contract.

(d) *Contractor's electronic system (system)* means the data processing hardware and software, data communications hardware and software, and printers utilized with the system.

(e) *CPA* means a Certified Public Accountant who is licensed as such by the State in which the CPA practices.

(f) *CPA Audit* means a professional examination conducted by a CPA in accordance with generally accepted auditing standards of a Financial Statement on the basis of which the CPA expresses an independent professional opinion respecting the fairness of presentation of the Financial Statement.

(g) *Current Assets* means cash and other assets that are reasonably expected to be realized in cash or sold or consumed during the normal operation cycle of the business or within one year if the operation cycle is shorter than one year.

(h) *Current Liabilities* means those liabilities expected to be satisfied by either the use of assets classified as current in the same balance sheet, or the creation of other current liabilities, or those expected to be satisfied within a relatively short period of time, usually one year.

(i) *Financial Statement* means the documents submitted to the Corporation by a private entity which portray the financial information of the entity. The financial statement must be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and reflect the financial position in the Statement of Financial Condition or Balance Sheet; and the result of oper-

ations in the Statement of Profit and Loss or Income Statement.

(j) *Processing representative* means a person or organization designated by the Contractor to be responsible for data entry and electronic transmission of data contained on crop insurance documents.

(k) *Sales* means new applications and renewals of FCIC policies.

(l) *Suspended Data Notice* means a notification of a temporary stop or delay in the processing of data transmitted to the Corporation by the Contractor because the same is incomplete, non-processable, obsolete, or erroneous.

(m) *3780 protocol*—means the data communications protocol (standard) that is a binary synchronous communications (BSC), International Business Systems (IBM)-defined, byte controlled communications protocol, using control characters and synchronized transmission of binary coded data.

§ 400.203 Financial statement and certification.

(a) An entity desiring to become or continue as a contractor shall submit to the Corporation a financial statement which is as of a date not more than eighteen (18) months prior to the date of submission.

(b) The financial statement submitted shall be audited by a CPA (CPA Audit); or if a CPA audited financial statement is not available, the statement submitted to the Corporation must be accompanied by a certification of:

(1) The owner, if the business entity is a sole proprietorship; or

(2) At least one of the general partners, if the business entity is a partnership; or

(3) The Chief Executive Officer and Treasurer, if the business entity is a Corporation, that said statement fairly represents the financial condition of the entity on the date of such certification to the Corporation. If the financial statement as certified by the Chief Executive Officer and Treasurer, partner, or owner is submitted, a CPA audited financial statement must be submitted if subsequently available.